

CHAPTER 7: CHARITABLE/NONPROFIT GAMBLING: COMPARISONS WITH OTHER STATES

Overview. This project included contacting other states that have significant amounts of charitable/nonprofit gambling to determine their approach, regulatory base and any enhancements planned or recently implemented.

The states contacted were:

Oregon	(Bingo, Raffles but no PB/PT, tribal gambling, border state)
Ohio	(new law after scandals there)
Michigan	(Bingo, PB/PT, Raffles, tribal gambling, commercial gambling, border state)
Texas	(large Bingo and PB/PT program, no tribal gambling)
Minnesota	(Bingo, PB/PT, Raffles, tribal gambling)
California	(always of interest, but C/NP gambling is regulated locally, so is not comparable with Washington)

These states were chosen because they have gambling profiles similar to Washington's, or because they have recently dealt with problems in their C/NP sectors.

Efforts to contact state officials in Colorado and Indiana were not successful. They were initially selected because Colorado's overall gambling profile is similar to Washington's, and Indiana has recently experienced problems with return to the charitable purpose in its Bingo activity.

Each person interviewed is in a senior-level regulatory role. Each stressed that the information presented was from their perspective and that perspectives from colleagues could be different. Thus the information presented should not be interpreted as the official policy or practice of the state, but rather the best understanding/judgment of the interviewee. Following each interview, the interview notes were provided to the interviewee to assure accuracy. Three of the interviewees provided follow-up confirmations/corrections.

Summary observations from these interviews:

- The regulation of charitable/nonprofit gambling is not generally a high-level priority, as evidenced by its organizational placement. Frequently, on the state web site, sifting through multiple sites and menus is necessary before finding the correct office.

The regulatory staff are located in a variety of settings—Attorney General, Department of Revenue, Lottery Commission, etc. Sometimes the regulatory responsibilities are split between the financial regulators and the licensors (Michigan). In Texas, the regulatory function started out in the Comptroller's office (because of the tax revenue raised), then moved to the Alcoholic Beverage Commission and finally the Lottery Commission.

In some states, Bingo is regulated in one agency, while other C/NP gambling activities are regulated in another.

- None of the states interviewed articulated a clear, over-arching philosophy about charitable/profit gambling or their role in regulating it. Most indicated that the Legislature sets the high-level policy and that regulation is not always the Legislature's highest priority.
- States tend to regulate different aspects of the gambling activities. Some authorize certain expenses, others limit certain expenses. Expenses are the focus of regulation in four of the five states interviewed. Allowable times of operation are a key focus in Oregon.
- Approaches to regulating the amount of money for the charitable purpose vary. Some states do not regulate this area at all, preferring to regulate expenses instead. Other states use a variety of formulas based on gross receipts, adjusted gross receipts (gross receipts less cost of goods sold), and total income. Most states interviewed expressed concern about whether appropriate amounts of income were being applied to the charitable purposes for which they were generated.
- States are starting to consider increasing their requirements for percentages or amounts to be applied to the charitable purpose.
- Major competition for C/NP gambling comes from Indian gambling, commercial gambling (from within the state in some cases, from neighboring states or countries in other cases). Competition was cited as a major reason for the decline in C/NP Bingo.
- In most states, Bingo is declining. The exceptions appear to be states that do not have significant commercial or Indian gambling, or in areas where the population is growing quickly and the market is expanding.
- Washington tends to be ahead of other states in allowing enhancements to existing gambling activities and games.
- Washington tends to be more strict and detailed in its regulation of operational matters than other states, but somewhat less strict and detailed in its regulation of charitable/nonprofit issues such as audits, proper classification of stated purpose, etc.
- Other states report that there is often not adequate oversight of the gambling operation by the charitable/nonprofit organization's top management and Board of Directors.
- Ohio is implementing a new computer system that will allow their staff to flag certain data that are outside normal parameters. Ohio has also instituted specific measures for items such as whether the organization exists primarily for gambling or for programs. Additional materials regarding these items were requested from Ohio as part of this study.
- California regulates C/NP gambling at the local jurisdiction level and thus there is no statewide picture of trends, etc.

OTHER STATES' CHARITABLE/NONPROFIT GAMBLING RESPONSES

ITEM/STATE	WASHINGTON	TEXAS	OHIO
C/NP Gambling Activities Authorized/Regulatory Agency	Bingo, PB/PT, Raffles, Amusement games, FRE's, Social card rooms Gambling Commission	Bingo, Pulltabs Lottery Commission	Bingo, Pulltabs (Instant Bingo) Attorney General's Office
Overall Philosophy toward C/NP sector	Provide opportunity for C/NP org's to raise funds for their stated purposes. Strict regulation of operation of games and record-keeping. Significant progress toward stated purpose	Provide an opportunity for org's to raise money through Bingo a a fundraising activity. Assure that org's are legitimate nonprofits. Have been very customer friendly but are moving to being more firm about meeting requirements.	Try to control, be sure that organizations that are doing gambling are licenses, be sure people are not using C/NP organizations as "fronts."
Items specifically regulated	Adjusted cash flow, percent of net income to stated purpose (60%). Requirements vary by size of licensee.	35% return to the charitable purpose (35% of AGR less expenses). Prize limits by game only. PT have 65% payout requirement. Expenses are authorized (salaries, rent, etc.) but not controlled.	Divides org's by IRS status (c-3's and veterans/fraternal). C-3's can keep 100% of their income; vet/frat orgs must distribute 50% to a charitable organization. 50% of total income from non-gambling sources. Payout ratios required.
Major competition	Commercial and tribal gambling in WA, Canada and Oregon	Oklahoma, Louisiana, Mexico. No commercial gambling in TX. State has shut down Indian gambling.	No Indian or commercial gambling. May be some competition from border states.
Trends in authorized activities	Bingo has declined significantly; PB/PT and Raffles are up.	Both Bingo and PT trended upward until 2002. Number of licensees is flat.	Traditional bingo up due to addition of instant bingo (PT). Traditional bingo tends to operate at a loss.

ITEM/STATE	WASHINGTON	TEXAS	OHIO
Enhancements considered or implemented	Seven days a week and shared operations, satellite bingo, linked games.	Added new type of PT in 2002. Considering a new type of electronic PT. Looking at other Class II games such as Multimedia, IGT, Aristocrat.	Not likely to add additional gambling activities. May consider other forms of Bingo (linked, satellite, etc.)
Top three problems in the C/NP sector		<ol style="list-style-type: none"> 1. Organizations turning the games over to professional managers and trusting them without adequate oversight. 2. Bingo hall owners dictating terms of use to licensee 3. Getting operators to use the dollars for their intended purpose. 	<ol style="list-style-type: none"> 1. Organizations trying to use C/NP status when they aren't a group or aren't charitable. 2. Being sure the organizations really do donate money to charity 3. Multiple rule changes have caused confusion and errors.
Other comments of interest		<p>Location of C/NP regulatory function has moved four times.</p> <p>AG oversees Raffles, but Raffles are not licensed.</p>	Keep legislators well-informed of changes in the industry and involve user groups throughout the process.

ITEM/STATE	MICHIGAN	MINNESOTA	OREGON
C/NP Gambling Activities Authorized/Regulatory Agency	Bingo, Raffles, Millionaire Nights (FRE's), Pulltabs. Bureau of State Lottery	Bingo, Raffles, Pulltabs, Tipboards, Paddlewheels Department of Revenue, Lawful Gambling Control Board.	Bingo, Raffles, Monte Carlo games (FRE's Department of Justice
Overall Philosophy toward C/NP sector	To first educate and then correct any problem. Regulate/manage expenses and assume that an appropriate amount goes to the charitable purpose.	Transparency: be sure that all information dealing with the industry is public. MN had local control provisions but problems occurred and the state took control.	Make Bingo available to as wide a universe of C/NPs as possible through limiting hours of operation by one licensee. Overall approach is less strict regulation than WA
Items specifically regulated	Expenses: compensation, rent advertising. No specific requirement re: return to the C/NP purpose.	Expenses (total expenses and rent only, not on compensation) Prize payouts Gross receipts and amount returned to the C/NP purpose are not regulated.	Expenses—salary cap, admin. expense cap. Return to the C/NP purpose must be 5% of GR for all licensees over \$250,000 in GR.
Major competition	Three commercial casinos in Detroit, 19 tribal casinos, Windsor, Canada and Indiana.	MN has compacts with 15-17 Indian tribes.	All Bingo licensees face competition from tribal gambling.
Trends in authorized activities	Bingo has decreased for past 8 years, now leveling off. Raffles and Pulltabs are up.	Bingo appears to be a dying enterprise. C/NP gambling is down in the more established areas, growing in the growing areas (suburbs).	Bingo is declining and the larger games are declining faster. Raffles are increasing. Monte Carlo games are not profitable.

ITEM/STATE	MICHIGAN	MINNESOTA	OREGON
Enhancements considered or implemented	Recent legislation to enhance progressive games by allowing prizes to accumulate week to week. Handheld electronic bingo introduced in 2003. Progressive linked games are being studied. Monte Carlo nights have been changed to allow players to play against each other.	Satellite bingo being considered. Tipboards to play off seal cards—looking at multi-jackpot options. Being asked to approve Tipboards based on the outcomes of sporting events. Everything in Bingo is paper, the state prohibits electronic enhancements	Eased prize payout limits. Considering linked progressive Bingo game with a statewide prize pool. Testing Planet Bingo (first C/NP to test).
Top three problems in the C/NP sector	<ol style="list-style-type: none"> 1. Competition (tribes, commercial) 2. Lack of volunteers 3. Skimming 	<ol style="list-style-type: none"> 1. Organizations not staying within their expense limits 2. Changing the outcome of the game through illegal activity (pulltabs) 3. Embezzlement and internal theft. 	<ol style="list-style-type: none"> 1. Market decline/competition 2. Independent control (limit on # of hours per week means shared facilities and one licensee or facility owner can dominate all the others using that facility) 3. Lack of adequate oversight by the C/NP Board over its gambling operations.
Other comments of interest	The C/NP operators are not well-organized and do not present a common front. The larger operators tend to be more visible and vocal. MI just redid their rules to simplify and organize them better. MI uses “directives” as a way to issue guidance without having to go through the formal rule adoption process.	MN has GR in excess of \$1 billion in its C/NP program.	OR is not likely to reduce its 5% return requirement even though licensees are having trouble meeting it. Other states are raising their return requirements. The City of Eugene banned smoking and the Bingo licensee in Eugene closed.

Note: **California** officials were also interviewed for this project. However, in California, C/NP gambling activities are controlled by local jurisdictions and there are not statewide answers for these questions. The State of California only gets involved if a local jurisdiction specifically requests help with enforcement. Bingo is the major C/NP activity, and Raffles have just been authorized. The law requiring 50% of proceeds to go to the charitable purpose has been rendered unenforceable by court decisions (because the requirement is not appropriate for a start-up organization). Data are not reported so there is no statewide information about trends in Bingo.

COMPARISON OF OTHER STATES: 2002 RANKINGS (of 25 states ranked)

TOP TEN STATES: GROSS RECEIPTS

Minnesota	\$1,427,550,000	Washington is #12 with
Kentucky	607,274,870	\$224,432,274
Indiana	583,128,493	
Texas	556,400,000	
New York	460,417,096	
Michigan	429,250,940	
Alaska	351,016,581	
Virginia	299,623,638	
North Dakota	270,671,285	
Nebraska	266,464,279	

TOP TEN STATES: NET PROCEEDS

Minnesota	\$123,613,000	Washington is #14
New York	79,613,669	with \$17,845,441
Michigan	77,898,614	
Indiana	73,649,267	
Kentucky	46,011,368	
Virginia	43,995,682	
Wisconsin	34,823,000	
Massachusetts	32,483,941	
Texas	32,200,000	
Alaska	30,612,915	

TOP TEN STATES: RATIO OF NET PROCEEDS TO GROSS RECEIPTS

Wisconsin	46.02%	Washington is #20 at 7.95%
Connecticut	33.60%	
Massachusetts	21.02%	
Michigan	18.15%	
New York	17.29%	
Oregon	15.54%	
Mississippi	14.73%	
Virginia	14.68%	
Colorado	14.28%	
New Hampshire	12.78%	

RANKINGS OF OTHER STATES in ratio of Net Proceeds to Gross Receipts:

Indiana (11th, 12.63%); Minnesota (tied for 19th with West Virginia, 8.66%); Washington (20th, 7.95%)(Texas (23rd, 5.79%).

Data from National Association of Fundraising Ticket Manufacturers 2002 Annual Report.